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Attorneys for Petitioner **Demar Barnes**

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DEMAR RAHYMES BARNES,

Petitioner,

v.

D.W. NEVEN, et al.,

Respondents.

Case No. 2:14-cv-01946-RFB-PAL

**UNOPPOSED MOTION FOR
EXTENSION OF TIME TO DECIDE
WHETHER TO FILE A MOTION TO
STAY**

(First Request)

The Petitioner, Demar Rahymes Barnes, by and through his attorney of record, Jason F. Carr, Assistant Federal Public Defender, moves this Court for an enlargement of time of thirty days (30) days from May 2, 2016 to June 1, 2016, in which to file, if necessary, a Motion for Stay. This motion is based upon the attached points and authorities and all pleadings and papers on file herein.

BASIS FOR THE REQUEST

1. On March 31, 2016, the Law Office of the Federal Public Defender “FPD” was appointed to represent Petitioner in the above-entitled action. (*See* ECF 11.) This Court further ordered Barnes Motion for Stay (ECF 10) denied without prejudice and that “[p]etitioner shall have thirty (30) days form the date of this Order to refile a motion to stay after consulting with his appointed counsel.” (ECF 11.)

2. Since appointment to this case, counsel’s office has engaged in the process of ordering, gathering and organizing the state court record, including all discovery and prior counsel files, in Mr. Barnes’s case. All of the aforementioned documents have been electronically imaged in accordance with the case management and handling procedures set in place by the non-capital habeas unit to go paper free.

3. Counsel has not had an opportunity to meet with Mr. Barnes to discuss the complexities of this case including the need for a motion to stay. An extension of time is necessary to provide counsel sufficient time to: 1) to discuss the complexities of this matter with Mr. Barnes; 2) allow for the consultation with the unit chief; 3) allow counsel to continue his review of the record; and 4) allow counsel sufficient time to investigate this relatively complex case before drafting the motion for stay.

4. Therefore, counsel seeks an additional thirty (30) days, to and including June 1, 2016, in which to continue his review of the record and determine whether it is in Barnes’ best interest to return to state court. This is counsel’s first request for an extension of time in this case.

5. On or about May 4, 2016, I contacted Senior Deputy Attorney General Victor-Hugo Schulze, II concerning this request for an extension of time. Mr. Schulze had no objection to the request for an extension of time, with the caveat that nothing about the decision not to oppose Petitioner’s extension request signifies an implied

finding of a basis for tolling any applicable period of limitations or the waiver of any other procedural defense. Petitioner at all times remains responsible for calculating any limitations periods and understands that, in granting an extension request, the Court makes no finding or representation that the petition, any amendments thereto, and/or any claims contained therein are not subject to dismissal as untimely.

6. Counsel for Petitioner respectfully requests that this Court grant this motion and order Petitioner to file his Motion for Stay no later than June 1, 2016.

DATED this 5th day of May 2016.

FEDERAL PUBLIC DEFENDER
DISTRICT OF NEVADA

/s/ Jason F. Carr

JASON F. CARR
Assistant Federal Public Defender

IT IS SO ORDERED:

A handwritten signature in black ink, appearing to be 'RFB', written over a horizontal line.

RICHARD F. BOULWARE, II
United States District Judge

Dated: May 9, 2016

CERTIFICATE OF SERVICE

In accordance with the Rules of Civil Procedure, the undersigned hereby certifies that on this 5th day of May, 2016, a true and correct copy of the foregoing was filed electronically with the United States District Court. Electronic service of the foregoing document shall be made in accordance with the master service list as follows:

Victor-Hugo Schulze, II
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/s/ Leianna Jeske
An Employee of the
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